IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7 OF 2005

Tech-Well Engineering Company
Pvt. Ltd. and Ors. .....Petitioners

Versus

Janaseva Sahakari Bank Ltd. and Ors. ...Respondents

Mr. R.V. Govilkar for the petitioners.
Mr. A.M. Joshi for respondent No.1

CORAM: **DALVEER BHANDARI, C.J.** &
S.A. BOBDE, J.

DATE: **FEBRUARY 24, 2005**.

P.C.

Petitioner No.1 is a Private Limited Company. Petitioner Nos.2 and 3 are directors of Petitioner No.1 Company. Petitioner No.1 is engaged in the business of engineering, fabrication and manufacturing activities. The Petitioner No.1 had taken term loan, cash credit limit and housing loan from Respondent No.1 Bank. On account of financial difficulties, petitioners suffered losses and were unable to repay the amount. Petitioners had filed various proceedings by

approaching various forums. Despite opportunities granted to the petitioners, the petitioners were unable to deposit the amount due to the Respondent-Bank. The Respondent-Bank, therefore, published an advertisement/notice on 10th December, 2004 announcing auction of the properties of the petitioner.

2. According to the reply affidavit of Ajay Madhavrao Shinde, Assistant General Manager of Respondent No.1, the total dues as of today against three accounts are to the tune of Rs.2,13,97,988/- plus interest. Despite giving maximum benefit to the petitioners, the petitioners have not repaid the outstanding amount. The respondent No.2 issued three recovery certificates bearing Nos. 5946, 5947 and 5948 in respect of three loan transactions. Instead of paying the amount, the petitioners filed complaint before the District Consumer Disputes Redressal Forum at Pune.

3. In the reply, it is mentioned that the period of one time settlement as per the guidelines issued by the Reserve Bank of India came to an end on 31st October, 2004, and thereafter the Bank was not entitled to consider the petitioners' request for one time settlement.

Admittedly, during that period, the petitioners had not requested the Bank for one time settlement. The relevant instructions issued by the Reserve Bank of India on 20th February, 2004, is reproduced as under:

> "Please refer to our circular UBD No. BPD/4/09: 140.OTS)/2002-03 dated June 3, 2003 extending the time period for receipt of applications under the OTS Scheme from April 30, 2003 and date for processing applications from October 31, 2003 to 31, 2004.
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> 2. In the context of requests received for extending the time limit for operation of the guidelines, it has been decided that applications for one time settlement of chronic NPAs of Co-operative Banks (except Multi State Cooperative Banks) upto Rs.10.00 crore may be received upto July 31, 2004. Consequently, the last date for processing applications received upto July 31, 2004 would also be extended to October 31, 2004.
>
> 3. Please acknowledge receipts."

4. In view of the clear guidelines issued by the Reserve Bank of India, the Respondent-Bank cannot be faulted in not giving benefit of

one time settlement to the Petitioners. The Petitioners have to pay huge amount to the respondent-Bank and instead of paying the amount, the petitioners have adopted one proceeding or the other so as to delay the making of the outstanding payment to the respondent-Bank.

5. On consideration of the totality of the facts and circumstances of this case, in our considered view, no interference is called for in the extraordinary jurisdiction under Article 226 of the Constitution of India. Writ Petition, being devoid of any merit, is accordingly dismissed.

CHIEF JUSTICE

S.A. BOBDE, J.